

13 Am. Jur. 2d Carriers One IV B Refs.

American Jurisprudence, Second Edition | May 2021 Update

Carriers

George L. Blum, J.D.; John Bourdeau, J.D.; John A. Gebauer, J.D.; Noah J. Gordon, J.D.; Jill Gustafson, J.D.; Karl Oakes, J.D.; Lucas Martin, J.D.; and Jeffrey J. Shampo, J.D.

Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

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Research References

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60, 89 to 95, 106, 107(2)

West's Key Number Digest, [Carriers](#) 10, 23, 36

West's Key Number Digest, [Insurance](#) 2887 to 2899

A.L.R. Library

West's A.L.R. Digest, [Automobiles](#) 59, 60, 89 to 95, 106, 107(2)

West's A.L.R. Digest, [Carriers](#) 10, 23, 36

West's A.L.R. Digest, [Insurance](#) 2887 to 2899

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13 Am. Jur. 2d Carriers § 139

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Carriers

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

1. Requirements for Registration

§ 139. Statutes and regulations governing registration, generally

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West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60

West's Key Number Digest, [Carriers](#) 10, 23

A person may provide transportation as a motor carrier or service as a freight forwarder or broker subject to jurisdiction under the federal statutes governing motor carriers, freight forwarders, and brokers¹ only if the person is registered to provide such transportation or service.²

The Unified Carrier Registration Act, as enacted in 2005, establishes the Unified Carrier Registration System Plan, which governs the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies.³

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Footnotes

¹ [49 U.S.C.A. §§ 13501 to 13508, 13531](#).

² [49 U.S.C.A. § 13901](#).

³ [49 U.S.C.A. § 14504a](#).

As to the regulations implementing the system, see [49 C.F.R. §§ 355.1 to 355.25, 360.1 to 360.5t, 365.101 to 365.511, 367.20 to 367.60, 368.1 to 368.8t](#).

§ 139. Statutes and regulations governing registration, generally, 13 Am. Jur. 2d...

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

1. Requirements for Registration

§ 140. Registration of motor carriers

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60

West's Key Number Digest, [Carriers](#) 10, 23

The Secretary of Transportation must register a person to provide interstate transportation, who is subject to jurisdiction under the federal statutes governing motor carriers,¹ as a motor carrier only if the Secretary finds that the person is willing and able to comply with:²

- (1) the applicable statutes and regulations of the Secretary and the Surface Transportation Board;
- (2) any safety regulations imposed by the Secretary;
- (3) the duties of employers and employees established by the Secretary;
- (4) the safety fitness requirements established by the Secretary;
- (5) the accessibility requirements established by the Secretary for transportation provided by an over-the-road bus; and
- (6) the minimum financial responsibility requirements established by the Secretary.

Additionally, a motor carrier must be issued a USDOT number;³ must disclose any relationship involving common ownership, common management, common control, or a common familial relationship between that person and any other motor carrier, freight forwarder, or broker, within a three-year period preceding the date of the filing of the application for registration;⁴ and pass a written proficiency exam.⁵

In addition to meeting the above requirements, the Secretary may register a person to provide transportation of household goods as a household goods motor carrier after meeting certain additional requirements.⁶

If a registrant is unable to comply with any of the above applicable requirements, the Secretary must consider, and to the extent applicable, make findings on any evidence of such noncompliance.⁷ Registration will be withheld if the Secretary determines that any registrant does not meet the applicable requirements.⁸

Observation:

The Federal Motor Carrier Safety Administration (FMCSA) has only limited discretion regarding motor vehicle carrier registration; it must grant registration to all domestic or foreign motor carriers that are willing and able to comply with the applicable requirements, and the FMCSA has no statutory authority to impose or enforce emissions controls or to establish environmental requirements unrelated to motor carrier safety.⁹

In addition to other penalties available under law, motor carriers that fail to register their operations as required or that operate beyond the scope of their registrations may be subject to penalties.¹⁰

CUMULATIVE SUPPLEMENT

Statutes:

49 U.S.C.A. § 13902(j), added effective January 29, 2020, provides that notwithstanding any other provision of 49 U.S.C.A. § 13902, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C.A. § 4574), the Secretary of Transportation must carry out the relief specified by denying or imposing limitations on a request for registration or capping the number of requests for registration by Mexico-dominated motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities so directed.

[END OF SUPPLEMENT]

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Footnotes

¹ 49 U.S.C.A. §§ 13501 to 13508.

² 49 U.S.C.A. § 13902(a)(1)(A).
As to the Surface Transportation Board, see § 42.

³ 49 U.S.C.A. § 13902(a)(1)(B).

⁴ 49 U.S.C.A. § 13902(a)(1)(C).

⁵ 49 U.S.C.A. § 13902(a)(1)(D).

⁶ 49 U.S.C.A. § 13902(a)(2).

7 49 U.S.C.A. § 13902(a)(3).

8 49 U.S.C.A. § 13902(a)(4).

9 Department of Transp. v. Public Citizen, 541 U.S. 752, 124 S. Ct. 2204, 159 L. Ed. 2d 60 (2004).

10 49 U.S.C.A. § 13902(e).

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

1. Requirements for Registration

§ 141. Registration of motor carriers—Motor carriers of passengers

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60

West's Key Number Digest, [Carriers](#) 10, 23

The Secretary of Transportation must register a private recipient of governmental assistance to provide special or charter transportation, who is subject to jurisdiction under the federal statutes governing motor carriers,¹ as a motor carrier of passengers if the Secretary finds that the recipient meets the registration requirements,² unless the Secretary finds on the basis of evidence presented by any person objecting to the registration that the transportation to be provided pursuant to the registration is not in the public interest.³

Definition:

The term “private recipient of government assistance” means any person (other than a public recipient of government assistance) who received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.⁴

The Secretary will register a public recipient of governmental assistance to provide special or charter transportation, who is subject to jurisdiction under the federal statutes governing motor carriers,⁵ as a motor carrier of passengers if the Secretary finds that:⁶

- (1) the recipient meets the requirements generally applicable to motor carriers;⁷ and
- (2) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing or is willing to provide the transportation, or the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

Definition:

The term “public recipient of governmental assistance” means any state; any municipality or other political subdivision of a state; any public agency or instrumentality of one or more states and municipalities and political subdivisions of a state; any Indian tribe; and any corporation, board, or other person owned or controlled by any such entity which received governmental assistance for the purchase or operation of any bus.⁸

A motor carrier of passengers that is registered by the Secretary is authorized to provide regular-route transportation entirely in one state as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.⁹ These registration requirements do not apply to any regular-route transportation of passengers provided entirely in one state which is in the nature of a special operation.¹⁰

Intrastate transportation so authorized may be suspended or revoked by the Secretary, through the statutory procedures provided, at any time.¹¹

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Footnotes

¹ 49 U.S.C.A. §§ 13501 to 13508.

² § 140.

³ 49 U.S.C.A. § 13902(b)(1).

⁴ 49 U.S.C.A. § 13902(b)(8)(B).

⁵ 49 U.S.C.A. §§ 13501 to 13508.

⁶ 49 U.S.C.A. § 13902(b)(2).

⁷ § 140.

⁸ 49 U.S.C.A. § 13902(b)(8)(A).

⁹ 49 U.S.C.A. § 13902(b)(3).

¹⁰ 49 U.S.C.A. § 13902(b)(6).

¹¹ 49 U.S.C.A. § 13902(b)(7).

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

1. Requirements for Registration

§ 142. Registration of motor carriers—Security and insurance requirements

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 89 to 95

West's Key Number Digest, [Carriers](#) 10, 23

West's Key Number Digest, [Insurance](#) 2887 to 2899

Forms

Forms relating to liability of carriers, generally, see Am. Jur. Legal Forms 2d, Carriers; Am. Jur. Pleading and Practice Forms, Carriers [[Westlaw®\(r\) Search Query](#)]

The Secretary of Transportation may register a motor carrier only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary in an amount not less than such amount as the Secretary prescribes.¹ A registration remains in effect only as long as the registrant continues to satisfy these security requirements.² The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except for certain excluded property referred to in the statute), or both.³

Observation:

A motor carrier liability insurer's reimbursement rights under the federally mandated MCS-90 endorsement are not governed

exclusively by federal law; the reimbursement right is triggered only if no coverage existed under the policy, and state law has determined the scope of coverage.⁴

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Footnotes

¹ [49 U.S.C.A. § 13906\(a\)\(1\)](#).

² [49 U.S.C.A. § 13906\(a\)\(1\)](#).

³ [49 U.S.C.A. § 13906\(a\)](#).

⁴ [T.H.E. Ins. Co. v. Larsen Intermodal Services, Inc.](#), 242 F.3d 667 (5th Cir. 2001).

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Part One. In General

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1. Requirements for Registration

§ 143. Registration of freight forwarders

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60

West's Key Number Digest, [Carriers](#) 10, 23

The Secretary of Transportation must register a person to provide service, who is subject to jurisdiction under the federal statutes governing freight forwarders,¹ as a freight forwarder if the Secretary determines that the person has sufficient experience to qualify the person to act as a freight forwarder and is fit, willing, and able to provide the service and to comply with the applicable statutes and the regulations of the Secretary.²

The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier.³ Each freight forwarder must employ, as an officer, an individual who has at least three years of relevant experience or provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.⁴

A registration issued to a freight forwarder can only remain in effect while the freight forwarder is in compliance with the applicable financial security requirements.⁵

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Footnotes

¹ [49 U.S.C.A. § 13531](#).

² [49 U.S.C.A. § 13903\(a\)](#).

³ 49 U.S.C.A. § 13903(d).

⁴ 49 U.S.C.A. § 13903(c).

⁵ 49 U.S.C.A. § 13906(b).

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

1. Requirements for Registration

§ 144. Registration of brokers

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 59, 60

West's Key Number Digest, [Carriers](#) 10, 23

The Secretary of Transportation must register a person to be a broker for the transportation of property, who is subject to jurisdiction under the federal statutes governing motor carriers,¹ if the Secretary finds that the person has sufficient experience to qualify the person to act as a broker for transportation and is fit, willing, and able to be a broker for transportation and to comply with the governing statutes and the applicable regulations of the Secretary.² The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier.³ Each broker must employ, as an officer, an individual who has at least three years of relevant experience or provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.⁴

The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect the passengers and carriers dealing with such brokers.⁵

A broker's registration remains in effect only as long as the broker continues to satisfy the financial security requirements.⁶

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Footnotes

¹ [49 U.S.C.A. §§ 13501 to 13508](#).

² [49 U.S.C.A. § 13904\(a\)](#).

3 49 U.S.C.A. § 13904(d)(1).

4 49 U.S.C.A. § 13904(c).

5 49 U.S.C.A. § 13904(f).

6 49 U.S.C.A. § 13906(b).

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

2. Enforcement of Registration Requirements

§ 145. Suspension, amendment, revocation of registration

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 106, 107(2)

West's Key Number Digest, [Carriers](#) 10

On the application of the registrant, the Secretary of Transportation may amend or revoke a registration.¹

On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—
— suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with the governing statutes, an applicable regulation or order of the Secretary or of the Surface Transportation Board, or a condition of its registration.²

— withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure to pay a civil penalty, failure to arrange and abide by an acceptable payment plan for such civil penalty (not later than 90 days after the date specified by order of the Secretary for the payment of such penalty), or for failure to obey a subpoena issued by the Secretary.³

— withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with the applicable statutes, an applicable regulation or order of the Secretary or the Board, or a condition of its registration.⁴

— withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that the motor carrier, broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements.⁵

Except on the application of the registrant, or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only

after (1) the Secretary has issued an order to the registrant requiring compliance with the governing statutes, a regulation of the Secretary, or a condition of the registration; and (2) the registrant willfully does not comply with the order for a period of 30 days.⁶ However, provision is made for an expedited suspension procedure when the registrant has failed to comply with the financial security requirements⁷ or when a motor carrier conducts unsafe operations which are an imminent hazard to public health or property.⁸ The Secretary may suspend or revoke the registration under the expedited procedures only after giving notice of the suspension or revocation to the registrant.⁹ A suspension under the expedited procedures remains in effect until the registrant complies with the applicable sections or, in the case of a motor carrier who conducts unsafe operations which are an imminent hazard to public health or property, until the Secretary revokes the suspension.¹⁰

CUMULATIVE SUPPLEMENT

Statutes:

[49 U.S.C.A. § 13905\(g\)](#), added effective January 29, 2020, provides that notwithstanding any other provision of [49 U.S.C.A. § 13905](#), upon an order accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act ([19 U.S.C.A. § 4574](#)), the Secretary of Transportation must carry out the relief specified by revoking or imposing limitations on existing registrations of Mexico-dominated motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.

[END OF SUPPLEMENT]

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Footnotes

¹ [49 U.S.C.A. § 13905\(d\)\(1\)](#).

² [49 U.S.C.A. § 13905\(d\)\(2\)\(A\)](#).

³ [49 U.S.C.A. § 13905\(d\)\(2\)\(B\)](#).

⁴ [49 U.S.C.A. § 13905\(d\)\(2\)\(C\)](#).

⁵ [49 U.S.C.A. § 13905\(d\)\(2\)\(D\)](#).

⁶ [49 U.S.C.A. § 13905\(e\)](#).

⁷ [49 U.S.C.A. § 13905\(f\)\(1\)\(A\)](#).

⁸ [49 U.S.C.A. § 13905\(f\)\(2\)](#).

⁹ [49 U.S.C.A. § 13905\(f\)\(3\)](#).

¹⁰ [49 U.S.C.A. § 13905\(f\)\(3\)](#).

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Part One. In General

IV. Use of Public Ways; Certificates and Permits; Registration

B. Interstate Transportation

2. Enforcement of Registration Requirements

§ 146. Private enforcement of federal registration requirements

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 107(2)

West's Key Number Digest, [Carriers](#) 10, 36

If a person provides transportation by motor vehicle or service in clear violation of federal registration requirements,¹ including the security requirements, a person injured by the transportation or service may bring a civil action to enforce any such requirements.² The trial of such a civil action is in the judicial district in which the person who violated the requirement operates.³

A copy of the complaint in the civil action must be served on the Secretary of Transportation, and a certificate of such service must appear in the complaint filed with the court.⁴ The Secretary may intervene in the civil action.⁵ The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary.⁶ When that notice is filed, the court must stay further action pending the disposition of the proceeding before the Secretary.⁷

In the civil action, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party.⁸

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Footnotes

¹ [49 U.S.C.A. §§ 13901 to 13904, 13906](#).

² [49 U.S.C.A. § 14707\(a\)](#).

3 49 U.S.C.A. § 14707(a).

4 49 U.S.C.A. § 14707(b).

5 49 U.S.C.A. § 14707(b).

6 49 U.S.C.A. § 14707(b).

7 49 U.S.C.A. § 14707(b).

8 49 U.S.C.A. § 14707(c).

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